

OCT 19 2005

Application No.: 09/331729

Docket No.: 05587-00343-US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Frank Osan et al.

Application No.: 09/331729

Art Unit: 1756

Filed: August 26, 1999

Examiner: J. L. Dote

For: **TONER FOR DEVELOPMENT OF  
ELECTROSTATICALLY CHARGED IMAGE  
CONTAINING POLYOLEFIN RESIN  
HAVING CYCLIC STRUCTURE**

**DECLARATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Dr. Klaus Berger, am a citizen of the Federal Republic of Germany and reside at Starkeradweg 8, 65843 Sulzbach, Federal Republic of Germany, hereby declare and say as follows:

1. I am a fully trained chemist, having studied chemistry at the University of Paderborn and have received the following academic degrees:

Diploma Chemist, Paderborn, 1991

Ph.D. (Dr. rer. nat), Paderborn, 1995

Postdoctoral Research Grant with the European Program Training and Mobility of Researchers of the University Louis Pasteur in the Laboratoire d'Ultrasons et de Dynamique des Fluides Complexes (CNRS).

That I am well acquainted with technical English.

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2. From 1997 on I have been employed by Hoechst AG and later Ticona GmbH. I worked as a head of laboratory in the field of amorphous cyclic olefin copolymers including:  
  
Physical testing and characterization of polymers like thermal properties (glass transition, melting point, heat deflection temperature), solution properties (solution viscosity, viscosity number), mechanical properties (Stress-strain-tester, impact strength), optical properties (haze, transmission), storage properties,  
  
Compounding, injection molding, film extrusion, toner binder  
  
Product and Application developments with emphasis on toner binder resins since 2002.
3. In the toner field, I am inventor up to now of two U.S. patents and patent applications and author of more than 8 publications and lectures.
4. In view of my qualifications as outlined above, I consider myself to be an expert and to be skilled in the art of the toner.
5. The application was first filed in Japan as application no.8-348 546 on December 26, 1996. The appropriate revision of the DIN 53461-B would be the January 1987 version. The January 1987 revision of DIN 53461-B was replaced in March 1996 by DIN EN ISO 75-1 and 75-2 which is almost identical with the January 1987 version of DIN 53461-B. One of ordinary skill in the art reading the patent

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specification of application serial no. 09/331729 would know that the January 1987 version of DIN 53461 was described in this application.

6. I have reviewed both the 1987 version of DIN 53461 and the 1996 DIN EN ISO 75-1 and 75-2. The later versions are almost identical to the 1987 version. The sole difference that I found was that in the 1987 DIN, the test specimen needs to be tested in the horizontal position whereas in 1996 DIN EN ISO's the test specimen can be tested in the horizontal and in vertical positions. The different positions lead to the same test results. Even if there were an issue of which version was intended, the 1987 DIN or the 1996 DIN EN ISO, the tests conducted by either version would still yield the same results. Again, as stated above in paragraph no. 6, one of ordinary skill in the art would know the January 1987 version of DIN 53461 was described in this application.
7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-identified application or any patent issues thereon.

Dr. Klaus Berger  
Dr. Klaus Berger

10.10.2005  
Date